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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/661,856   | 09/11/2003  | Scotty Baker         | 3179                | 8533             |
| 27727  | 7590        | 04/07/2006           | EXAMINER            |                  |
| PEDERSEN & COMPANY, PLLC<br>P.O. BOX 2666<br>BOISE, ID 83701 |             |                      |                     | BRAHAN, THOMAS J |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
|  |             | 3654                 |                     |                  |

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                     |                         |  |
|------------------------------|-------------------------------------|-------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>              | <b>Applicant(s)</b>     |  |
|                              | 10/661,856                          | BAKER, SCOTTY           |  |
|                              | <b>Examiner</b><br>Thomas J. Braham | <b>Art Unit</b><br>3654 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.  
 4a) Of the above claim(s) 2 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 3-11 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 24 January 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/17/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

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1. Applicant's election without traverse of Invention 1 in the reply filed on January 24, 2006 is acknowledged. Claim 2 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention there being no allowable generic or linking claim.
2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The structure of the swiveling hydraulic fluid pick-up tube is not discussed in the specification. Appropriate correction is required.
3. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the swiveling hydraulic fluid pick-up tube of claims 7 and 11 must be shown, or the feature must be canceled from the claims. No new matter may be entered.
4. If corrected drawing sheets are submitted to overcome the above objection, they must be in compliance with 37 CFR 1.121(d) and are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).
5. If new drawings are not needed to show this feature, the submission of better drawings is suggested as some of the drawings are close to being informal.
6. The following is a quotation of the all of the paragraphs of 35 U.S.C. § 112:
  - 1) The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
  - 2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
  - 3) A claim may be written in independent or if the nature of the case admits, in dependent or multiple dependent form.
  - 4) Subject to the following paragraph, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.
  - 5) A claim in multiple dependent form shall contain a reference, in the alternative only, to more than

one claim previously set forth and then specify a further limitation of the subject matter claimed. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of the particular claim in relation to which is being considered.

6) An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

7. Claims 7 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The structure of the swiveling hydraulic fluid pick-up tube is unclear. Where is it in the drawings?

8. Claim 4 is rejected under 35 U.S.C. § 112, second and fourth paragraphs, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention and for failing to further limit the claimed invention. Claim 4 merely recites an intended use limitation and fails to claim any structural details which would distinctly claim any subject matter and further limit the claimed remotely controlled carriage.

9. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1 and 3-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Carlile in view of Mitchell et al. Carlile shows a skyline logging carriage apparatus with a engine (85) for driving hydraulic pumps (86 and 87). It varies from claim 1 by not having the recited automatic controls. Mitchell et al shows a similar power plant (broadly disclosed for logging; see column 1, line 19) with a engine speed setting device which produces an engine command signal indicative of engine rotational speed and pump command signals and determines an efficient engine speed and pump displacement. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the logging carriage apparatus of Junes by providing it with an engine speed setting device and pump output control, to increase engine and pump efficiency, as taught by Mitchell et al. Carlile has a pressure roller assembly (56) which is disclosed as hydraulically actuated, see column 3, lines 44-46, and hydraulic clamp assemblies (18 and 72), as recited in part of claims 3 and 8. Using a starter and an alternator for the engine and a solenoid control at the manifold for the pump controls, as also recited in

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claims 3 and 8, or a pilot control, as recited in claims 6 and 10, would have been obvious design considerations using conventional power plant hardware, which would have been within the limits of routine skill in the art at the time the invention was made by applicant.

11. Fiske and Munn are cited as showing related logging carriages.

12. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Katherine Matecki, can be reached at (571) 272-6951. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas J. Brahan  
Primary Examiner  
Art Unit 36544